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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

TESLA, INC.,

Plaintiff,

v.

MATTHEWS INTERNATIONAL
CORPORATION,

Defendant.

Case No: 5:24-cv-03615-EJD

**DEFENDANT'S RESPONSE AND
OPPOSITION PURSUANT TO CIVIL
L.R. 7-11(B) REGARDING TESLA,
INC.'S ADMINISTRATIVE MOTION
TO FILE UNDER SEAL (ECF 56)**

Judge: Hon Edward J. Davila
Complaint Filed: June 14, 2024

PUBLIC / REDACTED VERSION

Pursuant to Civil Local Rule 7-11(b), Defendant Matthews International Corporation (“Matthews”) responds as follows to Plaintiff Tesla Inc.’s (“Tesla”) Administrative Motion to File Under Seal (ECF 56) (the “Motion”).

I. INTRODUCTION

In considerable part, Matthews does not oppose the relief sought in the Motion, on substantially the grounds stated in the Motion and supporting materials, as well as Matthews’ own Administrative Motion to File Under Seal (ECF 59) and supporting materials.

However, Matthews opposes the sealing of certain material that Tesla seeks to file under seal, specifically relating to the existence of the [REDACTED]

Specifically, Matthews opposes the sealing of the following portions of Tesla’s filings:

<u>DOCUMENT</u>	<u>PORTIONS TO BE UNSEALED</u>
Tesla’s Emergency Mot. for TRO (ECF 57)	Highlighted material at the following pages and lines: i:24 1:24–26 2:26–3:13 3:26–28 5:22 13:13–21 14:23 20:23–25 21:18–20
Ex. C1 to Decl. of R. Courtney in Support of Tesla’s Emergency Mot. for TRO (ECF 57-25)	Entirety

II. DISCUSSION

As stated more fully in Matthews’ Opposition to Tesla’s Emergency Motion for a Temporary Restraining Order (ECF 60), Tesla’s filing of claims on the public docket here—as opposed to in arbitration—appear to be part of a strategy to disclose a one-sided [REDACTED]

1 [REDACTED] version of the parties' private dispute to attempt to devalue Matthews. ECF 60 at 3–6.

2 Tesla filed its complaint in this Court, on the public docket, [REDACTED]

3 [REDACTED]
4 [REDACTED] Tesla did so notwithstanding the parties' [REDACTED]

5 [REDACTED] Tesla also filed a declaration in response to Matthews' motion to compel arbitration
6 that publicly and gratuitously disparaged Matthews' business, despite having little relevance to the
7 motion to compel arbitration. ECF 60 at 3 (citing ECF 32-5). During the public portions of the
8 hearing on the motion to compel arbitration (which Tesla has never sought to seal), there was further
9 discussion of the parties' disputes, including Tesla's November 2023 breach letter, [REDACTED]

10 [REDACTED] ECF 52 at 50:10–24. Tesla's public filings
11 received attention in the press, and led to stock price declines and a credit downgrade, which made
12 these issues central to Matthews' investors. ECF 60 at 3–4.

13 [REDACTED]
14 [REDACTED] Accordingly, [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 [REDACTED] ECF 57-26. Matthews made this disclosure in light of
18 Tesla's public disclosures of its one-sided narrative of the parties' dispute, including its suggestions
19 that Matthews did not develop this technology and does not have the right to sell it to others.
20 Matthews' disclosures were limited to rebutting demonstrable misrepresentations by Tesla in its
21 own public filings. (To the extent Tesla believes Matthews' disclosures give an inaccurate picture
22 of [REDACTED])

23 As explained below, Matthews had every right to make these disclosures. But, in any event,
24 Tesla points to no basis for asserting that information that has *already been disclosed* must be sealed
25 from public access on this Court's docket.

26 Pursuant to Civil Local Rule 79-5(c), the party requesting to seal information must provide
27 a statement explaining the reasons for keeping a document under seal, including "(i) the legitimate
28 private or public interest that warrant sealing; (ii) the injury that will result if sealing is denied; and

1 (iii) why a less restrictive alternative to sealing is not sufficient[.]”

2 “When a request to seal documents is made in connection with a motion, the court must
3 determine whether the parties are required to overcome that presumption with ‘compelling reasons’
4 or with ‘good cause.’” *Overpeck v. FedEx Corp.*, 2020 WL 5094841, at *8 (N.D. Cal. Aug. 28,
5 2020). A party seeking to seal materials submitted with a dispositive motion is subject to the
6 “compelling reasons” standard. *In re Uber Text Messaging*, 2019 WL 8200602, at *1 (N.D. Cal.
7 May 30, 2019). This Court has applied the “compelling reasons” standard to motions for temporary
8 restraining order. *See e.g., Actian Corp. v. AB Sciex LLC*, 2023 WL 7166811, at *1 (N.D. Cal. Oct.
9 30, 2023); *Mickelson v. PGA Tour, Inc.*, 2022 WL 4004772, at *2 (N.D. Cal. Sept. 1, 2022).

10 Importantly, [REDACTED] cannot, without more,
11 justify the sealing of that award. *See, e.g., Twitch Interactive, Inc. v. FishwoodCo GmbH*, No. 22-
12 CV-03218-VKD, 2023 WL 2026528, at *2 (N.D. Cal. Feb. 15, 2023) (“[T]he fact that the parties
13 agreed to the confidentiality of the underlying arbitration proceedings does not, standing alone,
14 provide a compelling reason to keep them under seal.”). There must be something more, such as
15 “trade secrets or other business information that might harm [a party’s] competitive standing.” *Id.*
16 Tesla’s motion does not set forth anything more, and there is no justification to seal the award here.

17 Given that the existence of [REDACTED], are
18 already public—ultimately as a result of Tesla’s actions—and Tesla has pointed to no injury that
19 has accrued to it from such disclosures, the sealing of the material identified herein does not meet
20 the standard required in this jurisdiction. (Again, Matthews does not oppose the sealing of material
21 relating to Tesla’s “confidential business and proprietary information,” including its alleged trade
22 secrets, its business strategy, and other such points.) Indeed, Tesla’s entire course of conduct in
23 seeking a Temporary Restraining Order against Matthews in the public eye is inconsistent with the
24 notion that Tesla is genuinely concerned about confidentiality here.

25 To the extent Tesla argues that Matthews breached its confidentiality obligations, and that
26 these alleged breaches cannot support disclosing the [REDACTED]
27 that is wrong. Among other reasons, Matthews’ confidentiality obligations were discharged when
28 Tesla breached those obligations. The parties’ contracts are governed by California law. *See* ECF

1 17-5, Ex. 1, § 15.6(c); ECF 6-5, § 12. “A bedrock principle of California contract law is that ‘[h]e
 2 who seeks to enforce a contract must show that he has complied with the conditions and agreements
 3 of the contract on his part to be performed.’” *Brown v. Dillard’s, Inc.*, 430 F.3d 1004, 1010 (9th
 4 Cir. 2005) (quoting *Pry Corp. of Am. v. Leach*, 177 Cal. App. 2d 632, 639 (1960)). Accordingly,
 5 “[w]hen a party’s failure to perform a contractual obligation constitutes a material breach of the
 6 contract, the other party may be discharged from its duty to perform under the contract.” *Brown v.*
 7 *Grimes*, 192 Cal. App. 4th 265, 277 (2011); Cal. Civ. Code § 1439. That is precisely the case here.

8 California courts have repeatedly found that a counterparty’s breach of a confidentiality
 9 provision can excuse a party from its confidentiality obligations. *See Sanchez v. Cnty. of San*
 10 *Bernardino*, 176 Cal. App. 4th 516, 529–30 (2009) (“Sanchez made her disclosures only after she
 11 learned that the County itself had already violated the confidentiality provision. Indeed, she made
 12 some of them to protect herself from the consequences of the County’s violation A reasonable
 13 jury could conclude that the County’s breach of the confidentiality provision excused any further
 14 performance by Sanchez.”); *Plotnik v. Meihaus*, 208 Cal. App. 4th 1590, 1602–03 (2012)
 15 (“[Defendant’s] repeated acts of harassment supported a finding he materially breached the
 16 settlement agreement, thereby excusing [Plaintiff’s] noncompliance with the mutual restraint
 17 clause’s prohibition by making disparaging statements about him to others.”); *LiMandri v.*
 18 *Wildman, Harrold, Allen & Dixon, LLP*, 2013 WL 2451322, at *7 (Cal. Ct. App. June 6, 2013)
 19 (“We are not impressed by the Law Firm’s claim that LiMandri breached the nondisclosure
 20 provisions when he engaged in ‘damage control’ after defendants wrongfully revealed confidential
 21 information. A defendant’s breach of a confidentiality provision excuses further performance by
 22 plaintiff to keep matters confidential.”);¹ *cf. Brown v. Dillard’s, Inc.*, 430 F.3d 1004, 1010 (9th Cir.
 23 2005) (holding arbitration provision unenforceable by party that refused to participate in arbitration,
 24 then moved to compel arbitration).

25
 26 ¹ While unpublished decisions of California courts of appeal are not precedential, a federal court
 27 may nonetheless rely on them as “accurately represent[ing] California law.” *Beeman v. Anthem*
 28 *Prescription Mgmt., LLC*, 689 F.3d 1002, 1008 n.2 (9th Cir. 2012).

As explained above, it was Tesla that first made public allegations regarding the parties' disputes. Under California contract law, Tesla cannot use the parties' confidentiality obligations as both a sword and a shield—by disclosing information disparaging Matthews but seeking to seal information benefiting Matthews. Again, Matthews objects only to the sealing of [REDACTED], not the sealing of any Tesla confidential business information.

III. CONCLUSION

For the reasons stated above, Matthews respectfully requests that the Court not order the sealing of the portions of Tesla's Emergency Motion for a Temporary Restraining Order and Exhibit C1 to the Declaration of Robert Courtney in Support of Tesla's Emergency Motion for a Temporary Restraining Order identified in this statement above, and as identified in the proposed order submitted concurrently with this statement.

Dated: February 28, 2025

JONES DAY

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